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10/551,398	09/29/2005	John P.R. Hammerbeck	AP067-05	3278

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EXAMINER

ESTREMSKY, SHERRY LYNN

ART UNIT	PAPER NUMBER
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3655

MAIL DATE	DELIVERY MODE
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10/30/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/551,398

Applicant(s)

HAMMERBECK, JOHN P.R.

Examiner

Sherry L. Estremsky

Art Unit

3655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-26 and 28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7,20,22 and 24-26 is/are rejected.
- 7) ☒ Claim(s) 6,8-19,21,23 and 28 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application.
- 6) ☐ Other: ____.

DETAILED ACTION

1. The receipt of the amendment dated September 22, 2008 of the application 10/551,398, including amendments to the claims and addition of claim 28, is acknowledged.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4, 5, 7, 20, and 24-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Moskob, U. S. Patent 6,453,772.

Moskob discloses an apparatus for providing a rotational output. The apparatus includes a rotatable output element 15 (column 3, lines 21-24), a transfer element 10 providing a traversable circuit (provided with teeth 11) relative to the rotatable output element 15, a constraint, housing part 6 with fixed pegs 18 and 19, arranged to constrain the transfer element 10 against rotation about its own axis but to allow eccentric oscillation of the transfer element 10 (column 3, lines 13-17 and 43-60), and an input drive 3/4 (column 2, lines 65-67). The input drive 3/4 is rotatable and is arranged to cause oscillation of the transfer element 10 by traversal thereof, relative to the rotatable output element 15, to provide a rotatable output (column 3, lines 36-52).
(claim 1)

The transfer element 10 has a traversable inner circuit and the input and output elements 8 and 15 traverse the circuit.
(claim 4)

The apparatus includes a plurality of input elements 4, 3, and 8.
(claim 5)

The input drive includes a varying electromagnetic field drive.
(claim 7)

Since the constraint 6 is an elastic body that recovers its original shape when released after being distorted, constraint 6 is a spring.
(claim 20)

The apparatus provides a less than unity ratio between input and output rotational speed (column 3, lines 50-53).
(claim 24)

A drive, such as for a vehicle power window or sunroof (column 1, lines 12-13), is disclosed as comprising the apparatus for providing rotational output.
(claim 25)

Moskob discloses a method of providing a rotation output comprising causing traversal of a rotatable output element 15 relative to a traversable circuit of a transfer element 10 in which the transfer element 10 is constrained against rotation about its own axis but can oscillate eccentrically, in which an input drive 3/4 causes oscillation of the transfer element 10 and hence traversal relative to the rotatable output element 15 to provide a rotational output (column 3, lines 36-53)
(claim 26)

4. Claims 1, 3, 5, 7, 22, and 24-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Colgan, U. S. Patent 3,424,036.

Colgan discloses an apparatus for providing a rotational output. The apparatus includes a rotatable output element 20 (including ring gear 36, column 2, line 59 and column 3, lines 29-33), a transfer element 30 providing a traversable circuit relative to the rotational output element 20, a constraint, housing part 12A with fixed pins 32, arranged to constrain the transfer element 30 against rotation about its own axis but to allow eccentric oscillation of the transfer element 30 (column 3, lines 12-20), and an input drive 14 (column 2, line 59). The input drive 14 is rotatable and is arranged to cause oscillation of the transfer element 30, by traversal thereof, relative to the rotatable output element 20, to provide a rotatable output (column 3, lines 34-55). (claim 1)

The transfer element 30 has an inner traversable circuit for traversal by the input element 14 and an outer traversable circuit for traversal by the output element 20 (portion 36). (claim 3)

The apparatus includes a plurality of input elements 14, 24. (claim 5)

The input drive includes a varying electromagnetic field drive or piezoelectric drive or fluid impulse drive (column 2, line 71 to column 3, line 2). (claim 7)

The transfer element 30 is traversable throughout an inner circumference of a rotational output element 36.

(claim 22)

The device provides a less than unity ratio between the input and output rotational speed.

(claim 24)

A transmission comprises the apparatus for providing rotational output.

(claim 25)

Colgan discloses a method of providing a rotational output comprising causing traversal of a rotatable output element 20 relative to a traversable circuit of a transfer element 30 in which the transfer element 30 is constrained against rotation about its own axis but can oscillate eccentrically, in which an input drive 14 causes oscillation of the transfer element 30 and hence traversal relative to the rotatable output element 20 to provide a rotational output (column 3, lines 34-55)

(claim 26)

Allowable Subject Matter

5. Claims 6, 8-19, 21, 23, and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Remarks

6. Applicant's arguments filed September 22, 2008 have been fully considered but they are not persuasive. The applicant states that since in each of the references, Moskob and Colgan,

every point on an inner circumference of the transfer element is in contact with the input element, and the input element thus rotates within the transfer element, the input element cannot be said to traverse the transfer element. While the examiner agrees that the input element rotates within the transfer element, with every point on the surface of the input element in contact with the transfer element (and vice versa), it is not agreed that this cannot be called traversal. Since there is movement of the input element relative to the transfer element, each point on the input element moves along, or traverses, the transfer element. The portion of the input element that is essentially a cam lobe traverses the transfer element, as does all of the other points on the surface of the input element. Since all of the points of the input element traverse the transfer element, the input element as a whole traverses the transfer element. The Applicant has stated that rotation within is not traversal, but has not given reasons why every point on the input element traversing the transfer element is not traversal of the input element itself.

It is also noted that claim 26 does not require the input element to traverse the transfer element. Claim 26 requires "traversal of a rotatable output element relative to a traversable circuit of a transfer element" and "the input drive causes oscillation of the transfer element and hence traversal relative to the rotatable output element". This is claiming traversal of the rotatable output element relative to the transfer element caused by the input drive.

Conclusion

7. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherry L. Estremsky whose telephone number is (571) 272-7090. The examiner can normally be reached on Monday and Thursday from 7:00 a.m. to 5:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on (571) 272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sherry L. Estremsky/
Primary Examiner, Art Unit 3681

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Art Unit: 3655

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Application Number**Application/Control No.**

10/551,398

**Applicant(s)/Patent under
Reexamination**

HAMMERBECK, JOHN P.R.

Examiner

Sherry L. Estremsky

Art Unit

3655